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**FILED**

FEB 28 2013

**N.J. BOARD OF NURSING**

By: Barbara Lopez  
Deputy Attorney General  
(973) 648-7454

STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
BOARD OF NURSING

IN THE MATTER OF THE LICENSE OF :	Administrative Action
:	:
MICHELE NEARY-PENDERGAST, R.N. :	CONSENT ORDER
License #26NR11227400 :	:
:	:
TO PRACTICE NURSING IN THE :	:
STATE OF NEW JERSEY :	:
:	:

This matter was opened to the New Jersey State Board of Nursing (Board) upon receipt of information indicating that Michele Neary-Pendergast, R.N. (Respondent) was suspected of diverting narcotics during the course of her employment as a nurse. Respondent began participating with the Professional Assistance Program (PAP).

The Board finds that Respondent's conduct, if proven, constitutes a violation of N.J.S.A. 45:1-21(e). The Board acknowledging Respondent's enrollment in a rehabilitation program, PAP; the parties desiring to resolve this matter

without further proceedings and without admissions; the Board finding the within resolution adequately protective of the public; and for other good cause shown;

IT IS on this 28 day of Feb., 2013

HEREBY ORDERED AND AGREED that:

1. Respondent may remain licensed in good standing provided that she complies with all the terms and conditions of this Order.

2. Respondent shall refrain from the use of any and all potentially addictive substances except as prescribed by an authorized health care practitioner who is made aware of Respondent's substance abuse history. Respondent shall report any such use to PAP in writing within five (5) days of receiving such a prescription together with the name of the prescribing health care practitioner, the name of the drug, the quantity, frequency, expected length of use, and reason for its use.

3. Respondent shall remain enrolled in, participate in, and comply with all of the terms and conditions of PAP monitoring until successful completion. Respondent shall cause PAP to inform the Board in writing if Respondent is non-compliant with, or is terminated from, or resigns from, further participation in the program, together with the reason for and

complete documentation of the non-compliance, termination and/or resignation. Notification to the Board shall be within 24 hours of determination of non-compliance, termination, or resignation, or as soon thereafter as is practicable. Respondent shall provide PAP's Executive Medical Director with a complete copy of the within Order.

4. PAP shall provide reports on a quarterly basis to RAMP, which reports shall be sent to the attention of Jamie Smith, Recovery and Monitoring Program, 1479 Pennington Road, Trenton, New Jersey 08618. These reports shall indicate Respondent's degree of compliance with the monitoring plan.

5. Respondent shall provide a release to PAP allowing PAP to provide pertinent reports, records, and other information pertaining to Respondent to the Board and to RAMP, the Board's designated monitor. Respondent's signature on this Order signifies Respondent's waiver of any right to confidentiality with respect to these matters, and Respondent's agreement that the Board may utilize any such reports, records, and other information it receives from PAP or RAMP in any proceeding regarding Respondent's license and that the Board may release any pertinent information in its possession to PAP or RAMP.

6. Respondent shall attend regular twelve-step support

group meetings or the equivalent, and nurse peer support group meetings, as required by PAP. She shall attend individual counseling and psychiatric treatment until successful discharge, if required by PAP. Respondent shall not engage in the practice of nursing if so advised by PAP, and shall confine her employment and employment schedule to settings and schedules approved by PAP.

7. Respondent shall submit to random observed urine testing or hair testing as required by PAP. Respondent's failure to submit to testing or provide a urine or hair sample when requested shall be deemed to be a violation of the terms of this Order. All random alcohol and drug screens shall be negative for the presence of alcohol or drugs, unless the drugs detected by screening were properly taken pursuant to a valid prescription from a health care practitioner aware of Respondent's substance abuse history. All positive results shall be confirmed by the Gas Chromatograph Mass Spectrometer testing method. Chain of custody documentation must accompany all laboratory reports and/or the laboratory reports must indicate that chain of custody procedures have been followed.

8. Respondent shall notify the Board, PAP, and RAMP within ten (10) days of any change of address, or any

termination, resignation or leave of absence from any place of nursing employment.

9. Respondent shall immediately inform each employer representative and nursing supervisor of the terms of this Order and provide them with a copy of the Order. Respondent shall ensure that each employer representative and nursing supervisor provides written notification on facility letterhead to RAMP and PAP, acknowledging receipt of a copy of the within Order and its terms.

10. Respondent may apply for the removal of the restrictions imposed by the within Order upon successful completion of PAP. The Board reserves the right to require Respondent to appear before the Board and demonstrate her fitness to practice without further monitoring upon any such application.

11. Any deviation from the terms of this Order without the prior written consent of the Board shall constitute a failure to comply with the terms of this Order. Upon receipt of any reliable information indicating that Respondent has violated any term of this Order, Respondent's license may be automatically suspended by the Board. Respondent, upon five (5) days notice, may request a hearing to contest the entry of such an Order. At

any such hearing, the sole issue shall be whether any of the information received by the Board regarding Respondent was materially false. In addition, the Board reserves the right to bring further disciplinary action.

NEW JERSEY STATE BOARD OF NURSING

By: Patricia Murphy PLD, APN  
Patricia Murphy, PhD, APN  
Board President

I have read and understand  
the within Consent Order  
and agree to be bound by  
its terms.

Michele Neary-Pendergast  
Michele Neary-Pendergast, R.N.  
Date: 2/8/13

I have read the above Order  
and agree on behalf of PAP to  
comply with its terms regarding  
monitoring and reporting by PAP.

L E Baxter  
Louis E. Baxter, M.D., FASAM  
Executive Medical Director  
Professional Assistance Program

Consent as to form and entry.

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Barry J. Beran, Esq.

Attorney for Michele Neary-Pendergast, R.N.

\* Barry Beran is no longer representing me,  
Michele Neary-Pendergast